

In the United States District Court
For the Western District of Texas
Del Rio Division

Michelle Miroslava Gomez
Plaintiff

vs.

A7 Transport Logistics, LLC and
Mikhail Yuryevich Moshkola
Defendants

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Civil Action No. 2:19-cv-64

**Defendant A7 Transport Logistics, LLC's
Notice of Removal**

To the Honorable Judge of Said Court:

Defendants A7 Transport Logistics, LLC hereby gives notice and removes this case from the 293rd Judicial District of Maverick County, Texas to the United States District Court for the Western District of Texas, Del Rio Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice, A7 Transport Logistics would respectfully show the Court as follows:

I. Factual Background

1. A7 Transport Logistics, LLC and Mikhail Yuryevich Moshkola are the defendants in a civil action styled *Michelle Miroslava Gomez v. A7 Transport Logistics, LLC and Mikhail Yuryevich Moshkola*, filed in the 293rd Judicial District Court of Maverick County, Texas, and bearing cause number 19-08-37802-MCV.

2. Plaintiff filed this suit on or about August 27, 2019. *See*, Exhibit A, Plaintiff's Original Petition and Requests for Disclosure, with citation. Although A7 Transport Logistics, LLC was served with the citation and petition through the Texas Secretary of

State on September 10, 2019, A7 Transport did not receive the citation and petition until September 16, 2019. *See* Ex. A, copy of citation; Exhibit C, USPS Tracking Notice showing delivery on September 16, 2019; *see also Monterey Mushrooms v. Hall*, 14 F.Supp.2d 988, 991 (S.D. Tex. 1998) (when service is effected on a statutory agent, the removal period begins when the defendant actually receives the process, not when the statutory agent receives process). This notice of removal is timely filed within 30 days of A7 Transport's receipt of the petition. 28 U.S.C. § 1446(b).

3. In her Original Petition, Plaintiff seeks to recover damages for personal injuries sustained as a result of an incident occurring on October 5, 2018. Plaintiff claims the negligence of Defendants A7 Transport Logistics, LLC and Mikhail Yuryevich Moshkola proximately caused her injuries. In her Petition, Plaintiff alleges damages in excess of \$ 1 million.

II. Grounds for Removal

4. The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties, in that every defendant is now and was at the time the action was commenced diverse in citizenship from every plaintiff. 28 U.S.C. § 1332(a). No defendant is or was at the time the suit was commenced a citizen of the State of Texas.

5. As set forth in her Petition, Plaintiff Michelle Miroslava Gomez is domiciled in Eagle Pass, Maverick County, Texas, and was domiciled there at the time this action was commenced. Plaintiff was at that time and is now a citizen of the State of Texas.

6. As acknowledged in Plaintiff's Petition, Defendant A7 Transport Logistics, LLC is a corporation incorporated under the laws of the State of Ohio, having its principal place of business now and at the time this action was commenced in the State of Ohio. Defendant is now and was at the time this action was commenced a citizen of the State of Ohio.

7. As acknowledged in Plaintiff's Petition, Defendant Mikhail Yuryevich Moshkola is a natural person domiciled in Sarasota County, Florida, and was domiciled there at the time this action was commenced. Defendant was at that time and is now a citizen of the State of Florida.

8. Plaintiff's Original Petition states a claim against Defendants in excess of \$1,000,000. The amount in controversy in this action therefore exceeds the sum of \$75,000.

9. Removal of this action is proper under 28 U.S.C. § 1441 because it is a civil action brought in state court, and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. § 1332 because the plaintiff and defendants are diverse in citizenship, and because none of the defendants are citizens of the State of Texas.

10. Both A7 Transport Logistics, LLC and Mikhail Yuryevich Moshkola have filed their Original Answer in the state court prior to this removal. *See* Exhibit B, file-marked copy of Defendants' Original Answer. Both defendants are represented by the same attorneys, and Mikhail Yuryevich Moshkola, individually and through his attorneys, consents to this removal.

III. Removal Venue

11. Venue is proper in the United States District Court for the Western District of Texas, Del Rio Division, because it is the judicial district and division in which the state court action is pending.

IV. Notice to State Court Regarding Removal

12. Pursuant to 28 U.S.C. § 1446(d), Defendants will promptly file a copy of this Notice of Removal with the Clerk of the State Court in which this action is pending.

V. Attachments to Notice of Removal

13. Defendants A7 Transport Logistics, LLC and Mikhail Yuryevich Moshkola hereby attach to this Notice of Removal the following documents:

Exhibit Number	Document	Date Filed
Exhibit A	Plaintiff's Original Petition and Request for Disclosure with Citation	08/27/2019
Exhibit B	Defendants' A7 Transport Logistics, LLC and Mikhail Yuryevich Moshkola's Original Answer and Request for Disclosure	10/15/2019
Exhibit C	USPS Tracking Slip	

Exhibits A and B were previously filed in the state court action.

VI. Conclusion and Prayer

14. Defendant A7 Transport Logistics, LLC requests that the Court remove this action to the United States District Court for the Western District of Texas, Del Rio

Division based on diversity jurisdiction under 28 U.S.C. §§ 1332, 1441, and 1446, and for such other relief to which this Defendant may show itself to be justly entitled.

Respectfully submitted,

**TOUCHSTONE, BERNAYS, JOHNSTON,
BEALL, SMITH & STOLLENWERCK, L.L.P.**

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Certificate of Service

This is to certify that this Notice of Removal has been served on all counsel of record for the other parties via e-mail on this 15th day of October 2019.

/s/ R. Wayne Gordon
R. Wayne Gordon